IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No. 6465 of 2005
Date of decision : 11.1.2007.

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Parties Name

State of Haryana and another

..... Petitioners

vs.

Baldev Raj and another

.....Respondents

Coram: Hon'ble Mr. Justice S.N. Aggarwal

Present: Sh. Suresh Monga, Senior Deputy Advocate General,
Haryana for the petitioners.

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S.N. Aggarwal, J.

Respondent No.1 had refused to accept notice. He was served by way of affixation. Respondent No. 2 is reported to have been served. But none is present on behalf of the respondents. They are proceeded against ex parte.

This petition was filed by the petitioners against the order dated 23.8.2005 passed by the Court of Additional Civil Judge (Senior Division), Kaithal vide which Baldev Raj respondent No.1 was permitted to sue in forma paupers as an indigent person under Order 33 CPC.

The perusal of the impugned order dated 23.8.2005 reveals that report of the Collector was received and as per that report Baldev Raj-respondent was a poor person and he had no agricultural land or source of income. Accordingly, the respondent was held to be an indigent person. He had filed a civil suit for damages to the tune of Rs.5 lacs with interest.

The learned State counsel has placed on the file a photocopy of the report of the Collector, which was proved in the trial Court as Exhibits R-1 and R-2. According to that report, the respondent was the owner of scooter No. HR 08A 1789. He also owned 1/3rd share in the house measuring 401 Sq.yard. Therefore, the observation made by the learned trial court that Baldev Raj-respondent did not own any land or any property to pay the Court fee is unwarranted. Accordingly, the impugned order dated 23.8.2005 is set aside.

Baldev Raj-respondent is directed to pay the Court fee within a period of two months from the date fixed in the learned trial Court.

Disposed of.

(S.N.Aggarwal)
Judge

11.1.2007.
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